

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of California-American Water Company for an order authorizing it to increase its rates for water service in its Sacramento District to increase revenues by \$3,160.8 or 14.35% in the year 2005, by \$2,158.6 or 8.48% in the year 2006, and by \$1,202.2 or 4.35% in the year 2007.

Application 04-04-040
(Filed April 30, 2004)

In the Matter of the Application of California-American Water Company (U 210-W) for an order authorizing it to increase its rates for water service in its Larkfield District to increase revenues by \$494.1 or 26.16% in the year 2005, by \$183.4 or 7.63% in the year 2006, and by \$61.9 or 2.39% in the year 2007.

Application 04-04-041
(Filed April 30, 2004)

In the Matter of the Application of California-American Water Company (U 210-W) for authority pursuant to Public Utilities Code Section 454 to Restructure and Consolidate its Rates for its Sacramento and Larkfield Districts.

Application 04-08-013
(Filed August 11, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING REGARDING
NOTICE OF INTENT TO CLAIM COMPENSATION**

1. Summary

This ruling denies Larkfield/Wikiup Water District Advisory Committee's (L/WWDAC's) November 7, 2005 motion to late-file its Notice of Intent to Claim

Intervenor Compensation (NOI). L/WWDAC received notice in the October 18, 2004 Scoping Memo that it must file its NOI no later than October 25, 2004. L/WWDAC's explanation of inexperience with Commission procedures for its 12-month delay in filing its NOI, and then later changed explanation that a letter was sent to our Process Office, does not constitute good cause for the Commission to deviate from the statutory time requirements of Pub. Util. Code § 1804(a)(1) and this Commission's policy.

Having failed to timely file its NOI, L/WWDAC is not eligible to seek intervenor compensation for its participation in this proceeding.

The Commission benefits from community participation. For future proceedings, L/WWDAC is encouraged to properly file its NOI so that all issues of eligibility for intervenor compensation can be addressed in a timely manner.

2. Background

On November 7, 2005, L/WWDAC filed a motion requesting permission to late-file its NOI. Accompanying the late-filed NOI, L/WWDAC filed its Request for Compensation for its contribution to the final decision in this proceeding, Decision (D.) 05-09-020.

In its motion, L/WWDAC requests that the Commission accept its late-filed NOI on the grounds that due to procedural error resulting from a lack of experience in the Commission's rules and procedures, it neglected to file its NOI within the statutory deadline of 30 days after the prehearing conference (PHC).

Applicant California-American Water Company (Cal-Am) timely responded in opposition to L/WWDAC's motion to late-file, its NOI, and its Request for Compensation.

In its response to L/WWDAC's motion, Cal-Am states that the motion is prejudicially late and does not satisfy the basic requirements under the Public Utilities Code and Commission case law for filing an NOI. Cal-Am requests that the Commission deny the motion.

On November 18, 2005, L/WWDAC filed a reply to Cal-Am's November 15, 2005 response. In this response, L/WWDAC states that after a thorough search of its files it discovered evidence that it did make an attempt to file an NOI in a timely manner but through inexperience did not follow accepted Commission procedures. Attached to its filing is a copy of a letter dated October 29, 2004 that L/WWDAC states was sent to the Commission's Process Office. The letter was never served on parties to this proceeding.

3. Discussion

L/WWDAC's motion to late-file its NOI does not establish good cause to deviate from the statutory time requirements of Pub. Util. Code § 1804(a)(1) and this Commission's long-standing policy of requiring timely filing of NOI's. Therefore, we deny the motion.

The requirements of Pub. Util. Code § 1804(a)(1) provide:

A customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation.

In D.00-03-044, we denied the request of The Utility Reform Network (TURN) for an award of \$9,440.27 because it filed its NOI nine months late, claiming attorney oversight. We stated:

While at one time we occasionally excused a belated NOI filing, in 1998 we issued a decision ¹ placing great importance on the NOI as a tool to ensure intervenor accountability.

L/WWDAC was granted intervenor status at the September 23, 2004 PHC. On October 18, 2004, L/WWDAC was served the Ruling and Scoping Memo of Assigned Commissioner and Administrative Law Judge (Scoping Memo). This Scoping Memo referenced Pub. Util. Code § 1804(a)(1)'s requirement to timely file an NOI by October 25, 2004. The Scoping Memo also referenced the Commission's Rules of Practice and Procedure and provided the service list for the proceeding.²

I find that L/WWDAC had all the information necessary to properly file its NOI in a timely manner. I do not find persuasive its explanation of inexperience with Commission procedures for its 12-month delay in filing its NOI, nor its later explanation of discovering a letter was sent to our Process Office. L/WWDAC has not shown that good cause exists for us to deviate from the requirements of Pub. Util. Code § 1804(a)(1) and our existing policy set forth in D.98-04-059.

Having failed to timely file its NOI, L/WWDAC is not eligible to seek intervenor compensation for its participation in this proceeding. I do not address the assertions made by Cal-Am's that (1) L/WWDAC is ineligible under the customer definition set forth in § 1802(b)(1) to seek intervenor compensation,

¹ *Order Instituting Rulemaking on the Commission's Intervenor Compensation Program*, Rulemaking 97-01-009; *Order Instituting Investigation on the Commission's Intervenor Compensation Program*, Investigation 97-01-010, D.98-04-059.

² In addition, L/WWDAC spoke repeatedly with our Public Advisor's Office and received from them the 2004 Intervenor Compensation Program Guidebook explaining our intervenor compensation program.

(2) its showing of financial hardship is insufficient, (3) it does not make a sufficient showing in support of the reasonableness of its \$94,003.50 request, or (4) L/WWDAC does not establish that it made a significant contribution to D.05-09-020.

Pursuant to Pub. Util. Code § 1804(b), this ruling is made in consultation with the assigned commissioner.

IT IS RULED that:

1. The November 7, 2005 motion of Larkfield/Wikiup Water District Advisory Committee's (L/WWDAC's) to late-file its Notice of Intent to Claim Intervenor Compensation is denied.

2. Having failed to timely file its NOI, L/WWDAC is not eligible to seek intervenor compensation for its participation in this proceeding.

Dated February 6, 2006, at San Francisco, California.

/s/ Christine M. Walwyn

Christine M. Walwyn
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Notice of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated February 6, 2006, at San Francisco, California.

/s/ Antonina V. Swansen

Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, *e.g.*, sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.